

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #8	CCRB Case #: 201706160	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/20/2017 4:30 AM	Location of Incident: Inside § 87(2)(b)	Precinct: 41	18 Mo. SOL 1/20/2019	EO SOL 1/20/2019	
Date/Time CV Reported Thu, 07/20/2017 4:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/28/2017 1:04 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Coates	09758	953760	PSA 7
2. POM Carlos Gomez	14919	955954	PSA 7
3. SGT Jose Caban	01324	929805	PSA 7
4. POF Rocio Castillo	03744	956506	PSA 7
5. POF Jammie Martinez	05956	954101	PSA 7
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Azad Mahmood	02538	945944	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer threatened to damage § 87(2)(b) s property.	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
C. An officer	Abuse: An officer refused to show the arrest warrant to § 87(2)(b)	
D.POM Carlos Gomez	Abuse: Police Officer Carlos Gomez refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	
E.POF Rocio Castillo	Abuse: Police Officer Rocio Castillo refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)	
F.POF Jammie Martinez	Abuse: Police Officer Jammie Martinez refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)	
G.POM Matthew Coates	Abuse: Police Officer Matthew Coates refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	
H.SGT Jose Caban	Abuse: Sergeant Jose Caban refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)	
I.POM Carlos Gomez	Force: Police Officer Carlos Gomez pointed his gun at § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Carlos Gomez	Discourtesy: Police Officer Carlos Gomez spoke discourteously to § 87(2)(b)	
K. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
§ 87(2)(g), § 87(4-b)		

### Case Summary

On July 20, 2017, at approximately 4:30 am, Sgt. Jose Caban, PO Matthew Coates, PO Jammie Martinez, PO Rocio Castillo, and PO Carlos Gomez (of PSA 7), visited the residence of § 87(2)(b) located at § 87(2)(b), in the Bronx. § 87(2)(b) and her sister § 87(2)(b) were awoken by banging at the door. When § 87(2)(b) went to go see who it was, an officer told her to “open up the fucking door before we kick it down,” stating that they had a warrant. **(Allegations A, B)** When she asked the officers to show her the warrant by sliding it under the door, an officer said “no I’m not giving you the fucking paper,” (subsumed, **Allegation B**) and continued banging on the door. **(Allegation C)** § 87(2)(b) and § 87(2)(b) asked the officers to identify themselves, but they allegedly refused to do so. **(Allegations D, E, F, G, H)** When § 87(2)(b) eventually cracked the door open, she saw PO Gomez standing outside with his gun pointed at her. **(Allegation I)** PO Gomez allegedly told her: “Don’t try anything fucking stupid.” **(Allegation J)** § 87(2)(b) immediately shut the door and called 911, who connected her to IAB. The officers ultimately left the scene while § 87(2)(b) was on the phone. § 87(2)(b) later found that her door had been damaged, allegedly as a result of the officers’ forceful banging. **(Allegation K)** § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

There is some video footage of the incident, but it does not document any of the allegations. (BR-BR) § 87(2)(g)

§ 87(2)(b)

### Mediation, Civil and Criminal Histories

§ 87(2)(b) and § 87(2)(b) rejected mediation. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
§ 87(2)(b) Notice of Claim results are pending. (BR25)

### Civilian and Officer CCRB Histories

- § 87(2)(b) and § 87(2)(b) have not filed and prior complaints.
- Sgt. Jose Caban has been a member of service for 15 years: he was a subject in 15 prior cases, on 21 allegations, 4 of which were Substantiated ( #200306533: Threat of arrest, refusal to provide name/shield, retaliatory summons, offensive language; CCRB – Charges; NYPD – Charges Dismissed. #200711818: Force; CCRB, NYPD – Instructions). § 87(2)(g)
- PO Matthew Coates has been a member of service for 4 years: he was a subject in one prior case, on one exonerated allegation. § 87(2)(g)
- PO Jammie Martinez has been a member of service for 4 years: she was subject in two prior cases, on four allegations, none substantiated. § 87(2)(g)

- PO Rocio Castillo has been a member of service for 3 years: she was a subject in one prior case, on three allegations, none substantiated. § 87(2)(g)
- PO Carlos Gomez has been a member of service for 3 years: he was a subject in one prior truncated complaint. § 87(2)(g).

## **Findings and Recommendations**

### **Allegations Not Pleaded**

§ 87(2)(b) and § 87(2)(b) alleged that an officer used profanity against their neighbor, identified by the investigation as § 87(2)(b) § 87(2)(b) when § 87(2)(b) stepped out of her apartment during the course of the incident. When contacted by the investigation, § 87(2)(b) denied interacting with the officers and did not raise any other allegations. (BR17) § 87(2)(g)

### **Explanation of Subject Officer Identification**

- Threat to Damage Property, Discourtesy, Arrest Warrant: § 87(2)(b) alleged that when she first went to the door, a male voice (she did not see who) told her to “open up the fucking door.” When she asked the officers to show her their warrant by sliding it under the door, a male voice (she did not see who) said: “No I’m not giving you the fucking paper.” She did not know which one of the three male officers in the hallway made the statement. The officers all denied using any profanity. And although the investigation determined that there was an active bench warrant for § 87(2)(b) the officers denied representing that they had a warrant and none could specify who – if anybody – might have been in possession of the warrant (or had access to it) § 87(2)(g)
- Property Damage: § 87(2)(b) and § 87(2)(b) also alleged that the officers (they did not know who specifically) kicked and banged against the door for approximately 45 minutes, possibly with something that sounded like a ram. When the officers left, they found the door scratched and indented. All of the officers denied threatening to or attempting to forcibly enter the premises or causing property damage to the door. None of the officers recalled who was positioned closest to the door, or who did the knocking and talking. § 87(2)(g)

**Allegation A: An officer threatened to damage § 87(2)(b)'s property.**

**Allegation B: An officer spoke discourteously to § 87(2)(b)**

**Allegation C: An officer refused to show § 87(2)(b) and § 87(2)(b) an arrest warrant.**

**Allegation I: Police Officer Carlos Gomez pointed his gun at § 87(2)(b)**

**Allegation J: Police Officer Carlos Gomez spoke discourteously to § 87(2)(b)**

**Allegation K: An officer damaged § 87(2)(b)'s property.**

It is undisputed that the officers went to the residence of § 87(2)(b) on July 20, 2017, at approximately 4:30 am, while conducting a “domestic violence sweep,” and interacted in some manner with § 87(2)(b)

§ 87(2)(b) testified as follows. On the night in question, she and her small child were staying overnight with § 87(2)(b) the sole resident of § 87(2)(b). No one else was in the apartment. At approximately 4:00 am, they were awoken by loud banging at the door and a male voice shouting: “Police, open up the fucking door before we kick it down!” With § 87(2)(b) behind her, § 87(2)(b) went to the door, looked through the peephole and saw six plainclothes officers gathered outside. A white or Hispanic male, identified by the investigation as PO Gomez, was standing directly in front of the door. When § 87(2)(b) asked who the officers were there for, one of the officers said they had a warrant and – while continuing to bang with what sounded like a ram – instructed her to open the door. Still peering through the peephole, § 87(2)(b) asked to see the warrant. In response, a Hispanic female stepped forward and quickly flashed a piece of paper but put it away before she could inspect the document. § 87(2)(b) asked the officers to slip the warrant under the door, but one of the men – there were five in total – said “no I’m not giving you the fucking paper.” When § 87(2)(b) asked for identification, one of the officers quickly flashed a shield in front of the peephole, but none verbally identified themselves. Because her sister’s dog was now barking, a male voice instructed § 87(2)(b) to “put the dog away and open the door.” (BR01)

Unable to get any information and worried that they would break down the door with force, § 87(2)(b) secured the dog in the bathroom and then returned to unlock the door. When she then cracked the door open and looked out into the hallway, she saw PO Gomez standing approximately 6 feet away from the door with a silver handgun pointed at her; he stated, “don’t try anything fucking stupid,” but did not say anything else and did not instruct her to step outside. The other officers were lined up at his side; they did not have their guns drawn. Screaming “why are you pointing a gun at me,” § 87(2)(b) immediately shut and locked the door and retreated into the apartment. She then called 911 and was connected to IAB, who said that a patrol car would be dispatched to her. While on the phone, § 87(2)(b) told her that the officers had covered their peephole with something so she could no longer see out into the hallway. By the time she got off the phone, the hallway became quiet and the officers seemed to have left. § 87(2)(b) and § 87(2)(b) did not open the door until three uniformed officers, led by Sgt. Azad Mahmood of the 41st Precinct, arrived on the scene. It was then that they learned that the peephole had been covered with a black plastic bag and that the space below the door knob had been dented and scratched – allegedly, a result of the officers’ sustained banging. (BR01) § 87(2)(b) § 87(2)(g)

did not allege any discourteous language. (BR02)§ 87(2)(g)

PO Coates, PO Castillo, and PO Martinez work in PSA 7's domestic violence unit. Sgt. Caban and PO Gomez typically work Conditions, but were assigned to back up the domestic violence officers on July 20, as the unit conducted its borough-wide I-Card "sweep." Although all of the officers except Sgt. Caban had participated in the sweeps before, they could only describe the operation very generally – that the unit periodically generates a list of wanted domestic violence perpetrators with I-Cards specifying probable cause to arrest, and that the unit then visits the last known address of each subject to locate and apprehend them. The officers all stated that they had no warrants for these individuals, and were highly unclear about operational planning, protocol, and practice – for example, who conducted the initial investigation, how subjects' identities were verified at each respective location, the frequency that occupants actually opened their doors, and the process by which they could be placed under arrest, if found. The officers were similarly unclear about what happened at § 87(2)(b), one of the last of approximately ten locations they visited that night; none could specify who they were looking for there, and none had any relevant documentation (including memo book entries) pertaining to § 87(2)(b) or § 87(2)(b) (BR05-BR09)

§ 87(2)(g)

§ 87(2)(b) In sum and substance, they stated that: 1.) at an unknown time toward the end of the sweeps, they visited an apartment on the § 87(2)(b); 2.) the officers knocked, announced themselves as police, and instructed the occupant to open the door; 3.) a dog inside began barking loudly, a female occupant responded verbally and – after questioning whether they were really police – refused to open the door; 4.) the officers repeatedly instructed the female to secure the dog and open the door, advising that they were there on an "open I-Card or complaint"; 5.) eventually, the female – identified by the investigation as § 87(2)(b) – briefly cracked the door open, with the dog still barking loudly, prompting PO Gomez to draw his firearm for safety; 6.) § 87(2)(b) quickly shut the door and stopped engaging with the officers, who left the scene soon thereafter. The officers were unable to approximate how long they were in the hallway. Additionally, they were unclear on the specifics of their interactions with § 87(2)(b) and could not elaborate on the following: how they were positioned in the hallway, and who was doing the knocking and talking; how they were able to discern whether the female speaker inside § 87(2)(b) was in fact the subject they were looking for (whether they announced a name, had a photograph, etc.); and exactly what § 87(2)(b) said to the communicating officer(s) through the exchange. (BR05-BR09)

The officers all denied representing to § 87(2)(b) that they had a warrant for anyone and denied using profanity against anyone. While they acknowledged that the door was knocked on repeatedly, they denied trying to forcibly enter the premises, with tools or otherwise, and denied damaging the door. The officers also denied covering the door's peephole in any manner. (BR05-BR09) But Sgt. Mahmood, who responded to the location at approximately 4:55 am, stated that he found the peephole covered with a small piece of black plastic, which he removed and discarded. He did not notice any property damage to the door. (BR10)

PO Gomez stated that he drew his gun because he feared for his safety: the dog had been barking since they arrived, and from the strength and volume of the barking, it seemed to be large and just

behind the door. When § 87(2)(b) then cracked the door open, PO Gomez believed that he saw the dog's snout through the gap in the door, causing him to draw his weapon and point it downward toward the floor. PO Gomez holstered his firearm as soon as the door closed and never pointed it at § 87(2)(b). He denied using any profanity. While none of the other officers saw the dog exit the doorway, they all testified to hearing its loud barking from beginning to end. (BR09)

§ 87(2)(b) recorded cell phone video of parts of the incident. The footage appears to begin at around the time § 87(2)(b) is on the phone with IAB, as she can be heard referring to the gun pointed at her and to the peephole being covered. The video does not document any other activity supporting the allegations. (BR03-BR04)

IAB investigators photographed the alleged property damage to the § 87(2)(b) door (embedded below). (BR22)



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Although the officers said that they had no warrants for the perpetrators they were after, the investigation found that § 87(2)(b) was the subject of an open bench warrant (for failure to appear on a 2013 summons for violating § 87(2)(b)). (BR25)

Per New York Criminal Procedure Law § 120.80, arrant/bench warrant executions require that: "Upon request...the officer must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the defendant upon request as soon after the arrest as possible." (BR26)

New York courts have routinely held that police officers may display their guns as a "protective measure" and "safety response." (People v. Livigni, 88 A.D.2d 386) (BR27)

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: Police Officer Carlos Gomez refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)**

**Allegation E: Police Officer Rocio Castillo refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)**

**Allegation F: Police Officer Jammie Martinez refused to provide her name and shield number to § 87(2)(b) and § 87(2)(b)**

**Allegation G: Police Officer Matthew Coates refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)**

**Allegation H: Sergeant Jose Caban refused to provide his name and shield number to § 87(2)(b) and § 87(2)(b)**

Allegedly, when § 87(2)(b) asked for identification, one of the officers quickly flashed a shield in front of the peephole, but none verbally provided their names or shield numbers.

§ 87(2)(b) allegedly also asked for the same but did not receive any information either. (BR01-BR02)

The officers stated that they were never asked to identify themselves by the occupant the engaged, whether by name or shield number. (BR05-BR09)

§ 87(2)(g)



Age Group	Gender	Percentage Vaccinated
18-24	Male	~10%
	Female	~10%
25-34	Male	~15%
	Female	~15%
35-44	Male	~25%
	Female	~25%
45-54	Male	~35%
	Female	~35%
55-64	Male	~45%
	Female	~45%
65-74	Male	~55%
	Female	~55%
75+	Male	~65%
	Female	~65%

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[REDACTED]

[REDACTED]

[REDACTED]

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Investigator:	Signature	Print	Date
Squad Leader:	Title/Signature	Print	Date